

ESTTA Tracking number: **ESTTA895687**

Filing date: **05/09/2018**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

## Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

### Opposer Information

Name	Rebecca Curtin		
Entity	Individual	Citizenship	UNITED STATES
Address	257 Concord Rd Lincoln, MA 01773 UNITED STATES		

Attorney information	Loletta DARDEN Suffolk University Intellectual Property Clinic Suffolk University Law School IP Clinic 120 Tremont St, STE 150 Boston, MA 02108 UNITED STATES Email: ldarden@suffolk.edu Phone: 6173051641
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### Applicant Information

Application No	87690863	Publication date	04/10/2018
Opposition Filing Date	05/09/2018	Opposition Period Ends	05/10/2018
Applicant	United Trademark Holdings, Inc. 141 S. Lapeer Drive Beverly Hills, CA 90211 UNITED STATES		

### Goods/Services Affected by Opposition

Class 028. First Use: 2017/08/00 First Use In Commerce: 2017/08/00  
All goods and services in the class are opposed, namely: Dolls; Toy figures

### Grounds for Opposition

The mark is merely descriptive	Trademark Act Section 2(e)(1)
The mark is generic	Trademark Act Sections 1, 2 and 45
The mark comprises matter that, as a whole, is functional	Trademark Act Section 2(e)(5)
Failure to function as a mark	Trademark Act Sections 1, 2 and 45

Attachments	RAPUNZEL Notice of Opposition Revised Client 5-9.pdf(66642 bytes ) Rapunzel Exhibit A.pdf(4301335 bytes )
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Signature	/Loletta DARDEN/
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Name	Loletta DARDEN TMCP-SUF
Date	05/09/2018

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

<b>Rebecca Curtin,</b>	)	
<b>Opposer,</b>	)	<b>Opposition No.:</b>
	)	
<b>v.</b>	)	<b>Application Serial No.: 87690863</b>
	)	<b>Filed: November 20, 2017</b>
<b>United Trademark Holdings, Inc.,</b>	)	<b>Published: April 10, 2018</b>
<b>Applicant</b>	)	<b>Mark: RAPUNZEL</b>

**NOTICE OF OPPOSITION**

**To the Honorable Commissioner of Patents and Trademarks:**

Opposer, Rebecca Curtin, believes that she will be damaged by registration of the mark shown in Serial No. 87690863, published for opposition on April 10, 2018, and hereby opposes the same.

As grounds for opposition, Opposer alleges as follows:

1. Upon information and belief, on November 20, 2017, Applicant, United Trademark Holdings, Inc., filed Application Serial No. 87690863 for registration of the mark RAPUNZEL in International Class 028 for “Dolls; toy figures”.
2. Upon information and belief, the name “RAPUNZEL” is one synonymous with the name of a well-known childhood fairytale character. The tale of Rapunzel is integrally part of human culture and experience as evidenced by adaptations existing from Proto-Indo-European roots in the Neolithic era, potentially 6,000 years old.
3. Upon information and belief, the Grimm Brothers are credited with the modern adaptation of the Rapunzel fairy tale as published in The Grimm Brothers’ Children’s and Household Tales, originally published in 1812.
4. The Grimm Brothers’ adaptation stemmed from a number of influences, including: Rapunzel by Friedrich Schutz, published in 1790; Persinette by Charlotte-Rose de

Caumont de La Force, published in 1698; and Petrosinella in the Pentamerone or Lo Cunto de li Cunti, “Story of Stories” by Giambattista Basile, published in 1634.

5. The plot, character, and overtones offered by the Rapunzel tale stretch across cultural boundaries outside of Western Europe, taking influence from the Baltic solar goddess, Saulé, held captive in a tower by a king. The Persian epic poem Shanahmeh, written between 977 and 1010 C.E. by Ferdowsi also includes a character named Rudāba, who allows her lover to climb her hair up a tower. Additionally, some influence is attributed to the tale of Saint Barbara in the Christian rite.
6. Upon information and belief, Applicant seeks to register as a mark a name that has a pre-established value and meaning to consumers. Upon information and belief, consumers will recognize “Rapunzel” as the name of a fairy tale character known in written and oral traditions in various forms for thousands of years.
7. Applicant has not sought to add any distinguishing elements to the name “Rapunzel” in the way it did with its “ZOMBIE RAPUNZEL” mark, Reg. No. 5027339.
8. Applicant’s mark fails to function as a trademark under Sections 1, 2 and 45 of the Trademark Act (15 U.S.C. §§1051, 1052 and 1127), as it is purely information and highly descriptive, if not a generic descriptor, of Applicant’s goods. Additionally, Applicant’s mark is merely informational under section 2(e)(1) of the Trademark Act (15 U.S.C. §1052(e)(1)) in that it merely describes and names a well-known fictional character. In that sense, the “mark conveys an immediate idea of an ingredient, quality, characteristic, feature, function, purpose or use of the goods.” TMEP §1209.01(b). The public knows Rapunzel as the character name of a fictional fairy tale character, not as a source indicator. Trademark protection may be precluded in those instances where the proposed

mark does not function as a source indicator. In the case of Rapunzel, consumers are accustomed to encountering the name in an associational or information manner unconnected with any goods/services. Here, Applicant is attempting to snatch the name Rapunzel out of the public domain, which would prevent others from referring to their Rapunzel dolls, characters and toy figures by their true name -- Rapunzel. As a result, the Board should deny registration of the opposed mark under Section 2(e)(1) of the Trademark Act (15 U.S.C. §1052(e)(1)) as well as Sections 1, 2 and 45 of the Trademark Act (15 U.S.C. §§1051, 1052 and 1127).

9. Applicant's attempted registration of RAPUNZEL is not the case of calling a rose by another name and it still smelling as sweet. The relationship of the name Rapunzel to the goods in the case of Rapunzel dolls is so close that it is the generic name for dolls bearing the description of the fairytale character. When the use of a would-be trademark falls within the "heartland" of its common usage, the would-be mark fails to function as a trademark. TMEP §1209.01(c). Here, consumers would face mislabeled Rapunzel goods or have to suffer through ambiguous descriptions such as "the maiden in the tower" to find Rapunzel merchandise. As a result, the Board should deny registration of the opposed mark under Sections 1, 2, and 45 (15 U.S.C. §§1051, 1052 and 1127) as being the generic identifier of a fictional fairy tale character that fails to distinguish the goods of the Applicant from the goods of others.
10. Applicant's mark is also functional under section 2(e)(5) of the Trademark Act (15 U.S.C. §1052(e)(5)) in that it would give Applicant a competitive advantage over other doll makers. Like a color-coding on a pill, or the phrase "Merry Christmas" on wrapping paper, the name Rapunzel on a doll makes that doll better than other dolls by giving

consumers important information about how to use the product—here, about the possibilities for play with the doll engaging with the well-known fairy tale as a built-in “back story” for the character. TMEP §1202.02(a)(vi). The name Rapunzel is the only moniker by which the well-known fictional character can be identified. Rapunzel functionally identifies the fictional fairy tale character Rapunzel. There is no other practicable way to identify the character. As evidence of the competitive need to use the name, others in the toy industry have used and continue to use the name Rapunzel to identify their Rapunzel character dolls. See Exhibit A.

11. Opposer, Rebecca Curtin, as a private citizen, has a legitimate interest in the outcome of this proceeding. By allowing an individual private company to trademark the name of a famous fairy tale character in the public domain, consumers such as Opposer will be denied access to healthy marketplace competition for products that represent the well-known fictional character. Consumers such as Opposer will also likely face an increased cost of goods associated with Rapunzel merchandise, given the lack of competition. Opposer believes that a trademark registration in the fairy tale character’s name for dolls could chill the creation of new dolls and toys by fans of the fairy tale, crowding out the substantial social benefit of having diverse interpreters of the fairy tale’s legacy. Consumers such as Opposer will also be denied access to classic, already existing, Rapunzel merchandise whose sale may be precluded if Applicant receives a registration for the name “Rapunzel.” Finally, Opposer is a professor of law teaching trademark law and has a scholarly interest in the robust development and consistent application of the doctrine of trademark law.

12. For the reasons described above, Rebecca Curtin has a reasonable basis for her belief in damage.

**WHEREFORE**, the Opposer, Rebecca Curtin, prays that said application Serial No. 87690863 be rejected, and that no registration be issued thereon to the Applicant, United Trademark Holdings, Inc. and that this opposition be sustained in favor of the Opposer.

Rebecca Curtin hereby appoints attorney Loletta Darden and student attorney Ryan Gordon of the Suffolk University Law School Intellectual Property and Entrepreneurship Clinic, 120 Tremont St, Suite 150, Boston, Massachusetts 02108, (617) 305-1641, members of the bar of the State of Massachusetts, to act as attorneys for Rebecca Curtin herein, with full power to prosecute said Opposition, to transact all relevant business with the Patent and Trademark Office and in the United States courts and to receive all official communications in connection with this Opposition.

The filing fee of this Opposition is submitted herewith, and was electronically filed on **May 9, 2018**.

Respectfully submitted,

Rebecca Curtin, the Opposer

By: /Loletta Darden/ on May 9, 2018  
Loletta Darden TMCP-SUF  
Attorney for Opposer  
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Intellectual Property and Entrepreneurship Clinic  
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# **EXHIBIT A**





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Doll with Pascal...**\$16.95**

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Rapunzel and  
Cassandra Dolls...**\$14.99**

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Disney Princess  
Tangled Glow N'...**\$25.49**

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Disney Princess  
Tangled Disney...**\$249.99**

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## Amazon.com: Disney Tangled Classic Rapunzel Doll – 12": Toys ...

<https://www.amazon.com/Disney-Tangled-Classic-Rapunzel-Doll/dp/B005GAY294> ▼

Rating: 3.8 - 49 reviews

Embark on exciting adventures during playtime with Rapunzel! Fully poseable, this **Rapunzel doll** comes with her signature long golden hair that you can braid over and over again like the little girls at the town festival in Tangled! Collect with Tangled Flynn Rider Doll and Tangled Rapunzel Wardrobe and Friends Set, each ...



## Rapunzel Doll: Amazon.com

<https://www.amazon.com/slp/rapunzel-doll/9vzwf5gkukd86cz>

Buy products related to **rapunzel doll** products and see what customers say about **rapunzel doll** products on Amazon.com ✓ FREE DELIVERY possible on eligible purchases.

## Rapunzel Dolls - Walmart

<https://www.walmart.com/c/kp/rapunzel-dolls> ▼

Fisher-Price Little People Disney Princess **Rapunzel's** Boat, Gift set includes 6 Disney Princess Wheelies vehicles, featuring Disney princesses Ariel, snow white,... By FisherPrice. Sold & Shipped by Breezes.

Product - Disney Princess **Rapunzel** Wedding Party Small **Doll**. Product Image. Disney Princess

**Rapunzel** Wedding ...

## rapunzel doll : Target

<https://www.target.com/s/rapunzel+doll> ▼

Shop for **rapunzel doll** online at Target. Free shipping on purchases over \$35 and save 5% every day with your Target REDcard.

## Rapunzel Toys - Dolls, Games & Movies - Toys"R"Us

<https://www.toysrus.com/products/rapunzel-toys.jsp> ▼

Let your hair down and enjoy the enchanting **Rapunzel** toys from Toys"R"Us. Explore **Rapunzel** games, dazzling dresses, playsets, movies and more for your princess.

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## Rapunzel Doll | eBay

[www.ebay.com/bhp/rapunzel-doll](http://www.ebay.com/bhp/rapunzel-doll) ▼

Find great deals on eBay for **Rapunzel Doll** in Disney Dolls. Shop with confidence.

## Tangled | shopDisney

<https://www.shopdisney.com/movies-shows/disney/tangled> ▼

Embark on fun **Rapunzel** adventures with Disney's Tangled merchandise. Shop Tangled clothes, **dolls**, toys and more only at the official shopDisney.

## Rapunzel Adventure Doll - Tangled The Series - 10" | shopDisney

<https://www.shopdisney.com/rapunzel-adventure-doll-tangled-the-series-10-1429534> ▼

Rating: 4.1 - 15 reviews - \$19.95 - In stock

Ready for adventure, frying pan in hand, **Rapunzel** has the wind in her long, golden, just-waiting-for-you-to-style-it hair. Plus, Pascal is along for the ride!

## Disney Store TANGLED RAPUNZEL Doll & PASCAL REVIEW | 2016 ...

<https://www.youtube.com/watch?v=uy-Krldckcl> ▼

Jul 2, 2016 - Uploaded by DisneyMonster





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